

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN HUBER,

Plaintiff,

v.

**PRO CUSTOM SOLAR, LLC, d/b/a/
MOMENTUM SOLAR**

Defendant.

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**3:19-CV-01090
(JUDGE MARIANI)**

ORDER

The background of this Order is as follows:

This Order concerns a discovery dispute that has been ongoing in this matter since November of 2019. As the parties are intimately familiar with the facts that gave rise to this dispute, the Court will not recite all of the events leading up to this Order.

On January 6, 2020, the Court received a joint letter from the parties (Doc. 52) advising the Court of Defendant's failure to produce certain telemarketing "call detail records" requested by Plaintiff by the agreed-upon December 31, 2020 deadline. Thus, on January 8, 2021, this Court ordered Defendant to produce the required call detail records as an excel file, in either the ".csv" or ".txt" document format within 14 days of the date of the Order. (Doc. 53). This Order further stated that "[i]f Defendant fails to provide Plaintiff with the requested documents by the deadline imposed by this Order, the Court will impose sanctions." (*Id.*).

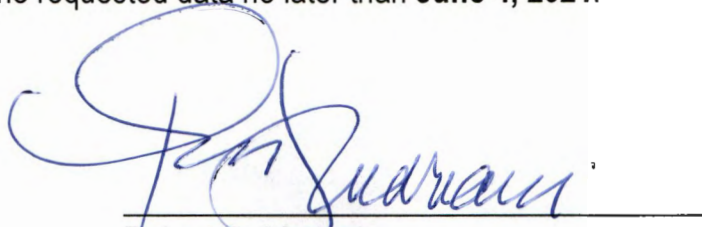
On February 16, 2021, the parties filed another joint letter (Doc. 55) advising the Court of Defendant's failure to produce the requested call detail records by the January 22, 2021 deadline. Due to the parties' disagreement regarding Defendant's compliance with this Court's January 8, 2021 Order, the Court Ordered that an in-person hearing would be held on Tuesday, May 25, 2021 at 11:00 a.m. at the William J. Nealon Federal Bldg. & U.S. Courthouse to address the ongoing dispute.

On May 19, 2021, the parties filed a joint letter (Doc. 58) informing the Court that they have reached an agreement that moots the need for the May 25, 2021 conference. The letter states that Plaintiff has agreed to waive his request for attorneys' fees incurred to date, and to waive pursuit of fees that would have been incurred in connection with the conference. The letter further states that Defendant has agreed to instruct its vendor to collect the data that is the subject of this discovery dispute. Defendant further agrees to use its best efforts to ensure the vendor collects and produces the data by June 4, 2021, and to bear the full cost of doing so.

AND NOW, THIS 20th DAY OF MAY 2021, upon review of the parties' joint letter updating the Court on the parties' positions regarding the discovery dispute and requesting cancellation of the May 25, 2021 conference (Doc. 58), **IT IS HEREBY ORDERED THAT:**

1. The discovery dispute hearing currently scheduled for Tuesday, May 25, 2021 at 11:00 a.m. at the William J. Nealon Federal Bldg. & U.S. Courthouse is **TERMINATED**.

2. Plaintiff's request for attorneys' fees incurred to date in connection with this discovery dispute is **DENIED WITHOUT PREJUDICE**.
3. Defendant shall conduct the collection of the call detail records requested by Plaintiff from its vendor and bear the full cost of doing so. Defendant shall ensure that its vendor collects and produces the requested data no later than **June 4, 2021**.



Robert D. Mariani
United States District Judge